

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN E. MIZIC,

Petitioner

v.

WILLIAM SCISM, WARDEN, *et al.*,

Respondents

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CIVIL NO. 1:11-CV-0390

MEMORANDUM

Petitioner, John E. Mizic, was initially involved in a criminal action in the Middle District of Pennsylvania. He was also charged in criminal actions in other districts. One such action caused him to receive a sentence in the Western District of Missouri. As a result of that sentence, Mizic claims that the Federal Bureau of Prisons failed to give effect to the consecutive sentence imposed by the Missouri court, thereby causing an error in the time computation of Mizic's sentence. Hence, on March 1, 2011, Mizic filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, which was docketed to the captioned number. At the time of the filing of the petition, Mizic was imprisoned within the Middle District of Pennsylvania.

Subsequently, through negotiations between the United States Attorney's Office, the Bureau of Prisons, and the Federal Public Defender on behalf of Mizic, an agreement was reached on the disputed sentence calculation. Mizic filed a motion to withdraw the § 2241 petition (Doc. 30). The agreement contained, in part, the following sentences:

9. At the core of Mizic's habeas corpus petition is a sentence computation issue.

10. The parties have come to an agreement concerning that issue.

11. Mizic has agreed to withdraw his petition and the government has agreed that it would adjust his sentence.

. . .

13. Exhibits A and B [to the petition to withdraw] show that an adjustment to Mizic's sentence has taken place.

. . .

15. Based on the foregoing, Mizic moves to withdraw the petition.

(Doc. 30.) Based on the foregoing, the magistrate judge to whom this matter was referred issued an order on December 16, 2011, dismissing the petition pursuant to Federal Rule of Civil Procedure 41(a)(2). (Doc. 31.)

On June 13, 2012, Mizic filed a motion to reopen his petition for writ of habeas corpus (Doc. 33), again alleging that the Bureau of Prisons miscalculated his sentence based on the Western District of Missouri sentence. This court did not address the merits as Mizic was incarcerated outside the Middle District of Pennsylvania and was without jurisdiction.

On January 17, 2013, Mizic was transferred to the Capitol Pavilion Community Corrections Facility in Harrisburg, Pennsylvania, located in the Middle District of Pennsylvania, and on July 15, 2013, was released from custody to begin his term of supervised release. On March 31, 2015, Mizic filed another motion to reopen his habeas petition, raising the same argument he previously raised in this action – that the Bureau of Prisons did not properly calculate his sentence based on the sentence he received in the Western District of Missouri.

Mizic does not state where the sentence is at variance with that agreed upon in the petition to withdraw (Doc. 30) nor, for that matter, has he set forth a calculation which he claims should be his sentence. Before this court directs the government to respond to the motion to reopen, Mizic will be required to supplement his motion in response to the above inquiries of this court. An appropriate order will be issued.

s/Sylvia H. Rambo
United States District Judge

Dated: April 6, 2015.